

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-7449

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

ALBERT NEWTON COOMBS,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Durham. N. Carlton Tilley, Jr., District Judge. (1:99-cr-00069; 1:04-cv-01052)

Submitted: March 25, 2008

Decided: April 10, 2008

Before TRAXLER and KING, Circuit Judges, and WILKINS, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Albert Newton Coombs, Appellant Pro Se. Sandra Jane Hairston, Assistant United States Attorney, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Albert Newton Coombs seeks to appeal the district court's order accepting the recommendation of the magistrate judge and denying relief on his 28 U.S.C. § 2255 (2000) motion. The order is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). A prisoner satisfies this standard by demonstrating that reasonable jurists would find that any assessment of the constitutional claims by the district court is debatable or wrong and that any dispositive procedural ruling by the district court is likewise debatable. Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683-84 (4th Cir. 2001). We have independently reviewed the record and conclude that Coombs has not made the requisite showing. Accordingly, we deny a certificate of appealability, deny leave to proceed in forma pauperis, and dismiss the appeal. We deny as moot Coombs' motion to place this appeal in abeyance until March 3, 2008.* We dispense with oral argument because the facts and legal contentions are adequately presented in

*To the extent Coombs seeks retroactive application of U.S. Sentencing Guidelines Manual § 2D1.1 (2007) (Amendment 706) to his sentence, see USSG § 1B1.10(c) (Mar. 3, 2008), he may apply for a reduction in the district court pursuant to 18 U.S.C. § 3582(c)(2) (2000).

the materials before the court and argument would not aid the decisional process.

DISMISSED